



# HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
(360) 902-2200

Issued Date: September 22, 2021  
Project End Date: February 15, 2023

Permit Number: 2020-6-433+02  
FPA/Public Notice Number: N/A  
Application ID: 21898

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Shoalwater Bay Indian Tribe ATTENTION: Holly Blake PO Box 130 Tokeland, WA 98590	Cascade Environmental Group ATTENTION: Tammy Stout 422 NW 8th Ave Portland, OR 97209-3529

**Project Name:** Ghost Dike Advanced Mitigation Project

**Project Description:** The Ghost Dike Advanced Mitigation Project is proposed by the Shoalwater Bay Indian Tribe to provide permittee-responsible advanced mitigation credits for unavoidable wetland impacts incurred by future tribally-sponsored development projects. Those tribally sponsored projects are in the planning phase and are not included in this permit. The Project site was formerly a portion of the Shoalwater Bay Mitigation Bank that is now being proposed as a separate project due to delays in Bank project approvals, and the tribe's need for near term wetland mitigation options.

The Project focuses on re-establishment and rehabilitation of wetlands associated with a degraded estuary area that was formerly diked. The dike has self-breached in 2 locations, but the Project site is still significantly degraded: the majority of the dike structure still remains, and a borrow ditch excavated to construct the dike currently routes tides around the formerly protected marsh plain, and the marsh plain lacks tidal channels both inboard and outboard of the remnant ("Ghost") dike. The Project area is defined by the transition between estuarine marsh vegetation and freshwater scrub-shrub vegetation (approximately 10.00 NAVD88) as the inboard limit, and the limits of rhizomatous saltmarsh vegetation as the outboard limit. Mitigation actions will re-establish wetlands within the footprint of the remnant dike, rehabilitate wetlands through tidal channel excavation and by filling of the borrow ditch, re-introducing periodic tidal inundation and restoration of channel formation processes.

Project elements include removing the remnant dike, filling the borrow ditch, excavating twelve tidal channels, filling two incised channels located at breach locations, seeding native vegetation, and repurposing native woody vegetation removed from the remnant dike as wave break wattles and habitat structures. Invasive species will be removed using either an excavator or a scraper and disposed of either in the bottom of the borrow ditch or off site in the upland staging/spoils area. Minor protections for the functioning dike adjacent Project will also be included: re-purposing of existing riprap and construction of a "soil wedge" to temporarily replace the current wind/wave energy protections provided by the Ghost Dike. The repurposed riprap and soil wedge will be removed, along with the functioning dike, to construct the Shoalwater Bay Mitigation Bank upon Bank approval.

## PROVISIONS

### AUTHORIZED WORK TIMES

1. **TIMING LIMITATION:** To protect fish and shellfish habitats at the job site, work below the ordinary high water line must occur from July 15 through December 31 and January 1 through February 15 of any year.



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- a. Interior channel excavation shall only be conducted during periods of lowest groundwater year round behind the existing dike.
- b. All dike breach work and tidal channel connections shall be conducted during lowest possible tides.

2. **APPROVED PLANS:** Work must be accomplished per plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled Shoalwater Bay Indian Tribe Ghost Dike Advance Mitigation Project, dated February 2020, and received on May 22, 2020, except as modified by this Hydraulic Project Approval (HPA). You must have a copy of these plans and this HPA available on site during all phases of the project construction.

### NOTIFICATION

3. **PRE- AND POST-CONSTRUCTION NOTIFICATION:** You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work, and again within seven days after completing the work. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.

4. **FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION:** If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

### STAGING, JOB SITE ACCESS, AND EQUIPMENT

5. Establish staging areas (used for equipment storage, vehicle storage, fueling, servicing, and hazardous material storage) in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.
6. Use existing roadways or travel paths.
7. Clearly mark boundaries to establish the limit of work associated with site access and construction.
8. Confine the use of equipment to the specific access and work corridor shown in the approved plans.
9. Equipment used for this project may operate waterward of the ordinary high water line, provided the drive mechanisms (wheels, tracks, tires, etc.) do not enter or operate waterward of the ordinary high water line.
10. Remove soil or debris from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to operating the equipment waterward of the ordinary high water line.
11. If wet or muddy conditions exist, in or near a riparian zone or wetland area, use equipment that reduces ground pressure.
12. Check equipment daily for leaks and complete any required repairs in an upland location before using the equipment in or near the water.

### CONSTRUCTION-RELATED SEDIMENT, EROSION AND POLLUTION CONTAINMENT

13. Do not conduct project activities when the work area is inundated by tidal waters.
14. Prevent contaminants from the project, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.



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15. Straw used for erosion and sediment control, must be certified free of noxious weeds and their seeds.
16. Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above the limits of anticipated floodwater unless the material is approved by the Washington Department of Fish and Wildlife for reuse in the project.

### CONSTRUCTION MATERIALS

17. Do not use wood treated with oil-type preservatives (creosote, pentachlorophenol) in any hydraulic project. You may use wood treated with waterborne preservatives (ACZA, ACQ) provided the wood is approved by the Western Wood Preservers Institute for use in the aquatic environment. Any use of treated wood in the aquatic environment must follow guidelines and best management practices available at [www.wwpinstitute.org](http://www.wwpinstitute.org).

### BERM REMOVAL & CHANNEL EXCAVATION

19. Spoils from the dike removal shall be used on site as applicable. Any spoils not utilized must be placed in an upland area where they will not enter waters of the state.
20. The new tidal channels shall be excavated before the berm is removed to reduce possible sediment delivery to waters of the state.
21. The new interior channels shall be designed and constructed to provide winter and spring rearing habitat for juvenile salmon. The channels shall have a grade to drain or maintain 0% longitudinal channel bottom slope through any topographic rises in the existing grade. Channels may not allow stranding of fish during low tidal inundation periods.
22. No fillings of tidal channels are authorized other than the channels identified by the plans. Any other channel modifications must be approved by the Habitat biologist before they are made.
23. Berm and surrounding land will be scraped in areas invasives are present and will be reseeded. Invasives will be hauled to a upland disposal site.
24. Woody vegetation removed during berm removal shall be utilized on site to provided habitat elements to new tidal channels and to stabilize filled in ditch.

### DEMOBILIZATION AND CLEANUP

25. To prevent fish from stranding, backfill trenches, depressions, and holes in the bed that may entrain fish during high water or wave action.
26. Seed areas disturbed by construction activities with a native seed mix suitable for the site that has at least one quick-establishing plant species.

LOCATION #1:	Site Name: Ghost Dike Removal Project NA, Tokeland, WA 98590					
WORK START:	October 31, 2020			WORK END:	February 16, 2022	
<u>WRIA</u>		<u>Waterbody:</u>			<u>Tributary to:</u>	
24 - Willapa		Various			Various	
<u>1/4 SEC:</u>	<u>Section:</u>	<u>Township:</u>	<u>Range:</u>	<u>Latitude:</u>	<u>Longitude:</u>	<u>County:</u>
NE 1/4	12	14 N	11 W	46.720501	-123.98629	Pacific
<u>Location #1 Driving Directions</u>						



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From I-5 in Chehalis, take SR6 until it turns into SR105 in South Bend. Follow SR105 to Tokeland, Washington. In Tokeland, turn south on Tokeland Road. Turn east on an unnamed private road across from Redondo Street. This road provides access to the functioning dike road across Kindred Slough to Kindred Island where the Project is located. Access to the property is restricted, without specific permission from the Shoalwater Bay Tribe. A locked gate prohibits access onto the functioning dike. Refer to Figure 1 for a map of the driving directions

### APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW. Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.



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**MINOR MODIFICATIONS TO THIS HPA:** You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov). You should allow up to 45 days for the department to process your request.

**MAJOR MODIFICATIONS TO THIS HPA:** You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You may email your request for a major modification to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov). You should allow up to 45 days for the department to process your request.

### APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

**A. INFORMAL APPEALS:** WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.



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A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee may conduct an informal hearing or review and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

Habitat Biologist  
Lauren Bauernschmidt  
Lauren Bauernschmidt 360-249-1217

[Lauren.Bauernschmidt@dfw.wa.gov](mailto:Lauren.Bauernschmidt@dfw.wa.gov)

for Director  
WDFW